



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

RESPONSE TO RESTRICTION REQUIREMENT

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APPLICANT: Smith

EXAMINER: Walczak

SERIAL NO.: 09/510,087

GROUP ART UNIT: 3751

FILING DATE: October 26, 2001

ATTY. DOCKET NO.: EVS-P-99-017

INVENTION: "A MARKING DEVICE, A METHOD OF USING THE SAME AND
AN ACCESSORY KIT FOR THE MARKING DEVICE"

Mail Stop Non-Fee Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Sir:

This Response is submitted in response to the Office Action dated April 28, 2003. In the Office Action, the Patent Office required the restriction to one of the following patentably distinct species: Species I, Figure 1; Species II, Figure 2; and Species III, Figures 3 and 4. Additionally, the Patent Office submits that Claim 17 is considered generic.

In response to the election of species requirement under 35 U.S.C. §121, Applicant elects herewith, with traverse, the invention of Species II, Figure 2, for immediate examination. Claims 9, 11, 14-17 and 19 read on Species II.

Applicant respectfully submits that Claims 9, 11, 14-17 and 19 of the application are in allowable form and respectfully solicits allowance of the same. No fee is due for this Response. If, however, any fees are due and owing for this Response, Applicant authorizes the Patent Office to charge Deposit Account No. 50-0595.

A duplicate of this sheet is enclosed for this purpose.

Respectfully submitted,



(Reg. No. 35,018)

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CERTIFICATE OF MAILING

I hereby certify that this **Response to Restriction Requirement** is being deposited with the United States Postal Service as First Class Mail in an envelope addressed to: Mail Stop Non-Fee Amendment, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on May 16, 2003.



Brian M. Mattson (Reg. No. 35,018)